

ROBINSON *v.* RUDKINS AND OTHERS.

*Circuit Court, D. Kansas.*

June 9, 1886.

1. EQUITY—DECREE—ENROLLMENT—AMENDMENT.

Decrees in equity are considered and treated as having been formally enrolled at the term they were rendered, and no alteration thereof, other than the correction of mere clerical errors, can thereafter be allowed, on motion.

2. SAME—BILL OF REVIEW—CORRECTING DECREE.

After enrollment of a decree, the only regular and safe way to correct a mistake therein is by a bill of review.

Motion to open a decree, and correct an erroneous description of lands therein, after a sale and confirmation thereunder.

*O. A. Bassett*, for complainant.

BREWER, J. In this case there has been a decree, sale, and confirmation. Everything is complete. It turns out, on examination, that

the decree directs a sale of land not described in the bill, and it is contended that the court may ignore everything from the time of the decree *pro confesso*, enter a new decree as though nothing had been done,—one correctly describing the land,—and have a sale and confirmation under this new decree. Of course, that would be a cheap and easy way of disposing of the case, but I do not think that it is in harmony with the equity rules. Under the old equity practice, where a case terminated the decree was enrolled. Thereafter, and after the close of the term, it could not be disturbed, except by bill of review. We have no enrollment, technically so called, in this country, and yet the same principle controls. All decrees are deemed to be enrolled as of the term in which they are made. *Whiting v. Bunk*, 13 Pet. 6; *Dexter v. Arnold*, 5 Mason, 303. Although the decree may not be responsive to the language of the bill, yet the record is completed, and the court cannot disturb it thereafter. A mere clerical mistake in figures is sometimes corrected on motion, but where a foreclosure case has passed into a decree, the sale made and confirmed, it is to be looked upon as something complete, and if there is any mistake in it, it should be corrected by a bill in review; and while that may involve a little trouble and expense, it is the only safe way to do.